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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/019,972 | 11/09/2001 | Miklos Illyes | ILLYES PCT | 7425 |
| 25889 | 7590 | 08/04/2004 | EXAMINER | |
| WILLIAM COLLARD COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576 | | | SHARMA, RASHMI K | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3651 | |

DATE MAILED: 08/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. | Applicant(s) | |
|------------------------------|-------------------------------------|-------------------------|--|
| | 10/019,972 | ILLYES, MIKLOS | |
| | Examiner Rashmi K. Sharma | Art Unit 3651 |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 09 November 2001.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 10-16 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 10-12 is/are rejected.

7) Claim(s) 13-16 is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 09 November 2001 is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/9/2001.
4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
5) Notice of Informal Patent Application (PTO-152)
6) Other: ____.

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 11/9/2001 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 10-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 10-16 are replete with instances of a lack of antecedent basis. A few examples are: claim 10 lines 1-2 "the taking", claim 12 line 3 "the latter", claim 13 line 4 "the position". Appropriate correction is required.

Claim 10 recites the term "a counting one". This term appears to be vague and indefinite. Appropriate correction is required.

Claim 10 line 9 recites "a mechanic signal" and should read "a mechanical signal". Appropriate correction is required.

Claim 10 recites “apparatus consists of” in line 2, which limits the scope of the invention to *only* what is structurally claimed beyond the term “consists of”. However beyond the term “consists of”, claim 10 line 8 recites the term “characterized by that” which deems the scope of the claimed invention to be unlimited in terms of any additional structure. Therefore, it is unclear as to exactly what the Applicant intends to claim as their invention.

Claim 10 appears to have a listing of claim limitations that simply recite elements within a counter or control system, not assigning any specific function as to exactly what the control system is doing and how it works, thereby deeming claim 10 incomplete. Further clarification is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Omland (U.S. Patent number 3,732,544)

Discloses a control apparatus for dosing medicaments being packed in a medicament tape (32) having a storage unit (35), a dosing unit (25, 26), a counting unit (see Figure 1), cylinders (39) coupled to a drive unit (42) thereby furthering the medicament tape attached to the storage unit (35) and the counter having a mechanical

signal transmitter (10), an electronic sensor (23), an electronic evaluation unit (11) electrically connected to the sensor (23), an internal clock (21, 22) and memory unit (17) where the driving unit (42) is coupled to the signal transmitter (10) issuing a signal to the sensor (23) at the dosing of each tablet.

Oblanc also discloses a cutting unit (25) coupled with the driving unit (42) in a controlled manner.

Allowable Subject Matter

Claims 13-16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Dependant claims 13-16 recite the structural limitation of a stepping unit being equipped with an inhibitor unit stabilizing the position of the medicament tape, a cylinder lift and the counter is built up and fastened to the inside of the apparatus to be an exchangeable unit. None of the references cited, show the structural limitations above or teach or anticipate these limitation and are clearly defines over the prior art.

Conclusion

Any inquiry concerning this communication should be directed to Rashmi Sharma who can be reached at 703-306-5952 Monday through Friday.

Any general inquiry concerning the status of this application should be directed to the Group receptionist who can be reached at 703-308-1113 Monday through Friday.



KATHY MATECKI
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TECHNOLOGY CENTER 3600